

REMARKS

The present amendment is in response to the Office Action dated September 15, 2004, where the Examiner has rejected claims 1-22. Reconsideration and allowance of pending claims 1-22 in view of the amendments and the following remarks are respectfully requested.

A. Objection to the Drawings

The Action objects to the Drawings under 37 C.F.R. 1.84(p)(5) stating that the drawings do not include the following reference sign(s) mentioned in the description: 106. The applicant has included formal drawings with the response to this action. The formal drawings include corrected figure 1. Corrected figure 1 includes reference sign 106 and is labeled "Replacement Sheet." A marked up copy of original figure 1 illustrating the change is also included.

The applicant believes that the replacement sheet addresses the examiners objection. Applicant, therefore, respectfully requests withdrawal of the objection to the drawings.

B. Rejection of Claims Under 35 USC §102

The Examiner has rejected claim 1 under 35 U.S.C. § 102(e) as being anticipated by Banno (U.S. Publication 2002/0049064 A1). Applicant respectfully disagrees. To support a rejection under 35 U.S.C. § 102, the reference must teach every element and recitation of the Applicants' claims. Rejections under 35 U.S.C. § 102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. Thus, the reference must clearly and unequivocally disclose

every element and recitation of the claimed invention. Applicant respectfully traverses this rejection for at least the reasons stated below.

The Action relies on Banno as teaching a mobile wireless communications device and, a method for presenting a direction, the method comprising: determining the magnetic bearing of the wireless communications device and presenting a direction responsive to the magnetic bearing.

With regard to claim 1, Applicant respectfully asserts that Banno fails to teach determining the magnetic bearing of the wireless communications device. Rather, Banno teaches calculating direction to a target based on known positions and signal strength. Banno gives no indication that magnetic bearing can be determined and no mechanism for detecting a magnetic bearing is disclosed. Accordingly, Banno cannot teach, suggest, or disclose determining a magnetic bearing and presenting a direction responsive to the magnetic bearing as described in the present application and claimed in claim 1. The Applicant therefore respectfully requests that the rejection as to claim 1 be withdrawn.

C. Rejection of Claims Under 35 USC §103

The Examiner has further rejected claims 2, 3, 4, 5, and 11 under 35 U.S.C. § 103(a) as being unpatentable over Banno in view of Lauro. (U.S. Patent 5,173,709). Claims 2, 3, 4, 5, and 11 depend from claim 1, which is itself allowable over the art of record. Accordingly, Applicant asserts that claims 2, 3, 4, 5, and 11 are allowable over the art of record. Further, the disclosure of Lauro fails to cure the basic deficiencies of Banno. Specifically, Lauro fails to teach determining a magnetic bearing of a wireless

communication device, as claimed in claim 1. Accordingly, neither Banno nor Lauro, considered singly or in combination can render claims 1-5, and 11 obvious.

Moreover, there is no teaching, suggestion, or motivation to combine the compass of Lauro with Banno. Combining references without such a teaching suggestion or motivation, results in impermissible hindsight. The Action attempts to provide the required motivation to combine by stating that it would have been obvious to incorporate the reference axis of Lauro with the determining a magnetic bearing of a mobile device taught in Banno. But as explained above, neither Banno nor Lauro teach, suggest, or disclose determining a magnetic bearing of a wireless communication device as required by claim 1. Accordingly, not only are all the elements of claim 1 not present, the Action fails to provide a motivation to combine the two references. The Action therefore fails to make a *prima facie* case of obviousness. The Applicant therefore respectfully requests that the rejection as to claims 2, 3, 4, 5, and 11 be withdrawn.

The Examiner has further rejected claims 6, 7, 8, 9, and 10 under 35 U.S.C. § 103(a) as being unpatentable over Banno and Lauro in view of Endo. (U.S. Patent 6,278,383). Applicant respectfully traverses this rejection for at least the reasons stated below. Claims 6, 7, 8, 9, and 10 depend from claim 1, which is itself allowable over the art of record. Accordingly, Applicant asserts that claims 6, 7, 8, 9, and 10 are allowable over the art of record. Further, the disclosure of Endo fails to cure the basic deficiencies of Banno and Lauro. The Applicant therefore respectfully requests that the rejection as to claims 6, 7, 8, 9, and 10 be withdrawn.

The Examiner has further rejected claims 12-15 and 22 under 35 U.S.C. § 103(a) as being unpatentable over Kato. (U.S. Publication 2003/0134665) in view of

Lauro. Applicant respectfully traverses this rejection for at least the reasons stated below. Kato is not a valid § 102 or § 103(a) reference. Kato is clearly not a valid § 102(a) or § 102(b) reference because the filing date, February 5, 2002, of the present application predates the publication date of Kato, July 17, 2003. Kato is not a valid § 102(e) reference because the filing date of the present application, February 5, 2002, predates the U.S. filing date accorded Kato. Kato is not a valid § 102(g) reference because the filing date of the present application, February 5, 2002, predates the U.S. filing date accorded Kato. Since Kato is not a valid § 102 reference Kato is also not a valid § 103 reference. The Applicant therefore respectfully requests that the § 103(a) rejection as to claim 12 be withdrawn. Claims 13-15 and 22 depend from claim 12. The Applicant therefore respectfully requests that the rejection as to claims 13-15 and 22 be withdrawn.

The Examiner has further rejected claims 16, 17, 18, 19, and 20 under 35 U.S.C. § 103(a) as being unpatentable over Kato and Lauro in further view of Banno. Claims 16, 17, 18, 19, and 20 depend from claim 12. The Applicant therefore respectfully requests that the rejection as to claims 16, 17, 18, 19, and 20 be withdrawn.

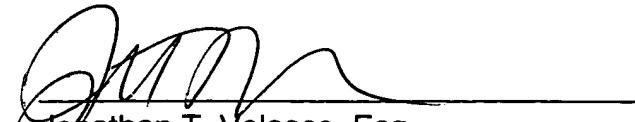
The Examiner has further rejected claim 21 under 35 U.S.C. § 103(a) as being unpatentable over Kato, Lauro and Banno in further view of Endo. Claim 21 depends from claim 12. The Applicant therefore respectfully requests that the rejection as to claim 21 be withdrawn.

D. Conclusion

For all the foregoing reasons, an early allowance of claims 1-22 pending in the present application is respectfully requested.

Respectfully Submitted,

Dated: December 15, 2004



Jonathan T. Velasco, Esq.
Reg. No. 42,200

Jonathan T. Velasco, Esq.
KYOCERA WIRELESS CORP.
Attn: Intellectual Property Department
P.O. Box 928289
San Diego, CA 92192-8289
Tel: (858) 882-3501
Fax: (858) 882-2485

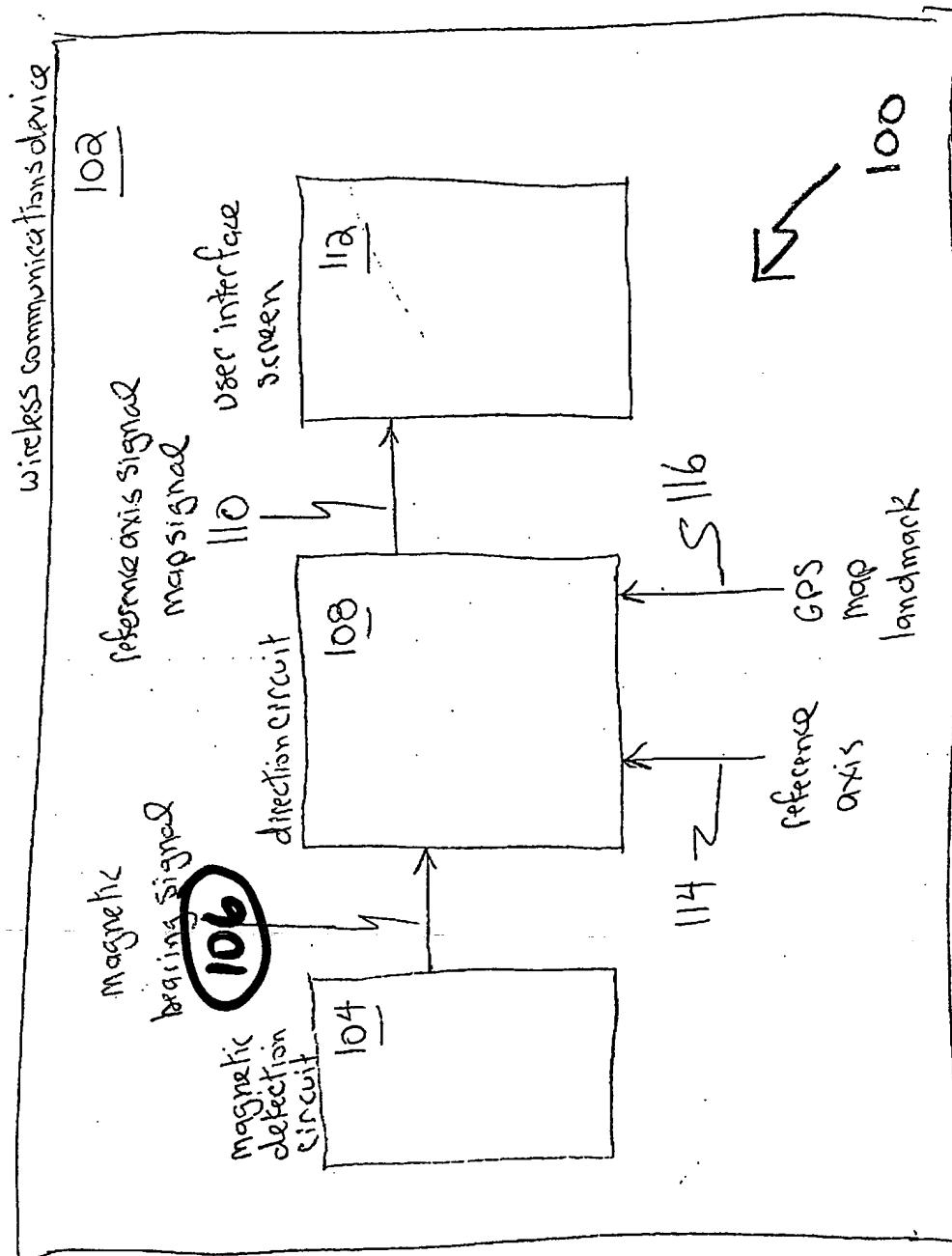


Fig. 1